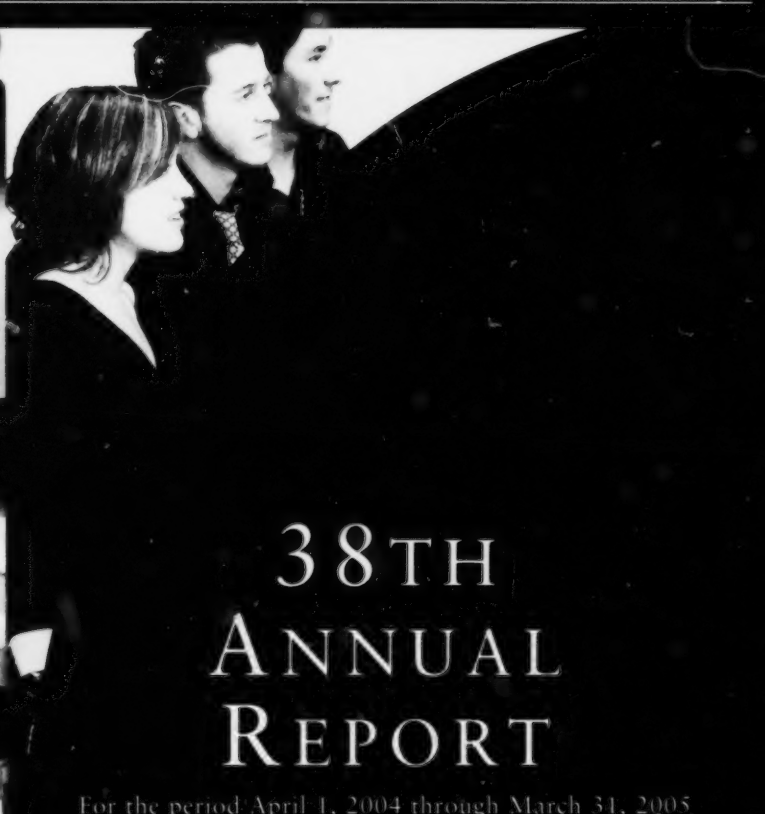
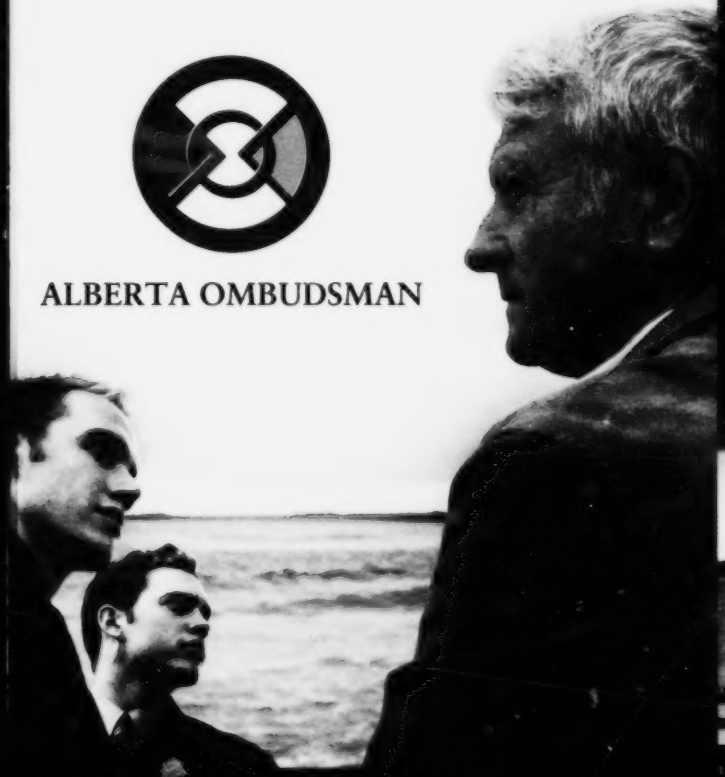
FOCUSED ON FAIRNESS



38TH ANNUAL REPORT

For the period April 1, 2004 through March 31, 2005

ALBERTA OMBUDSMAN



ALBERTA OMBUDSMAN
Focused on Fairness

November, 2005

The Honourable Ken Kowalski
Speaker of the Legislative Assembly
325 Legislature Building
Edmonton, Alberta
T5K 2B6

Mr. Speaker:

The Office of the Ombudsman is pleased to present its 38th Annual Report to you and, through you, to the Legislative Assembly.

This Report has been prepared in accordance with section 28(1) of the *Ombudsman Act* and covers the activities of the Office of the Ombudsman for the period April 1, 2004 through March 31, 2005.

Respectfully,

G. B. (Gord) Button
Ombudsman

Vision

The Office of the Alberta Ombudsman
is the recognized leader for independent investigation,
promotion and support of administrative fairness.

Mission

The Office of the Alberta Ombudsman
independently and impartially promotes high standards of
administrative fairness through investigations,
recommendations for change and education.

Values

To obtain our Vision and deliver our Mission our Values are
fundamental to all our interactions and communications.

We Value:

Fairness
Competency
Respect
Integrity
Equity and
Confidentiality

We also value a working environment that fosters personal
and professional growth and development, collaboration
and teamwork, and innovation and creativity.

ALBERTA OMBUDSMAN
Focused on Fairness

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MESSAGE from the Ombudsman

INTRODUCTION

It is once again my pleasure to present the Annual Report of the Office of the Alberta Ombudsman for fiscal year 2004/2005 as required by the *Ombudsman Act*. Alberta instituted the first provincial Ombudsman Office in Canada in 1967 and this report highlights our 38th year of service to Albertans.

The past year has seen many significant developments in the Office. We faced the challenge of ever-increasing complexity of investigative issues, an increase in the overall calls for service and significant staff changes. Despite those challenges, we also developed the first Strategic Business Plan for the Office through a collaborative effort by all staff and undertook several proactive initiatives to enhance the service we provide to Albertans. We have had many successes and continue to enjoy the cooperation of those authorities we investigate to focus on continuous improvement of administrative processes. However, as can be expected with the complexity of issues we face, there are still some areas which require attention. This report reflects on both our successes and areas of ongoing concern.

The Year in Review

Since my last report, three senior investigators have retired and two others left the Office to pursue other career options. This was the first significant attrition experienced in many years. We also started the year with several vacant positions. As a result, I hired three new investigators in early 2005 and will hire three additional investigators shortly to bring us back up to our full complement. The remaining staff have been challenged to keep up to the investigative demands until the new investigators are trained and able to handle more complex issues. Through the diligence and hard work of my staff, we have not only continued to provide an excellent service to Albertans but have made significant strides in improving our business practices. I am deeply indebted to my dedicated team of professionals for persevering through these challenging times.

We experienced a turnaround in the downward trend of calls for assistance in the past year. Our calls from complainants increased nearly 15% to 4753 during the year while the number of written requests for assistance also increased slightly to 627. Due to the significant redistribution of programs among departments and the amalgamation and realignment of ministries that took place in November 2004, this annual report does not include a breakdown of complaints by department or authority. Because of these changes it would be very difficult to accurately report these statistics by department without misleading the reader or creating erroneous perceptions about the adherence to administrative fairness principles by departments in the delivery of services and programs. Generally, previous trends have continued regarding the types and quantity of complaints received. As in past years, we continue to receive a significant number of complaints about the Assured Income for the Severely Handicapped program (AISH), Correctional Services Division, Workers' Compensation Board, the Appeals Commission for Alberta Workers' Compensation, the Maintenance Enforcement Program and child protection issues under the Department of Children's Services. I encourage any reader who would like specific statistics on a program or department to contact our Office and we will provide both appropriate statistical information and any explanation necessary for proper analysis.

Kevin Young, Director of the Appeals Secretariat, Human Resources and Employment, is committed to ensuring clients are treated fairly.

There is another issue of note regarding statistical reporting on investigations conducted by the Ombudsman. In previous reports we have itemized the number of files opened and investigated in each authority and the outcome of each file. However, an analysis of our investigative files indicates a growing trend toward multiple issues of complaint in many files. Although each file applies to only one authority, each issue of complaint applies to a particular matter of administration and therefore requires its own investigation. Our former method of scoring files

did not account for the number of actual investigations we conducted and therefore did not accurately reflect the volume of work performed by this Office. Additionally, where a file may have contained six issues of complaint, we may have found the authority acted in an administratively fair manner on five of those issues but was unfair on one issue. Under the previous scoring system, we would record one supported file against that authority when in fact the authority was found to have acted fairly in five of the six matters investigated. In the coming year we will gather statistics on each issue investigated and the outcome of each investigation so that future annual reports will more accurately reflect the statistical analysis of all issues investigated and the efforts of authorities to deliver services and programs in a fair manner. This new procedure will also bring us in line with the methodology used in other provincial Ombudsman Offices and facilitate easier and more accurate comparisons of work loads and results achieved.

Successes

We have enjoyed considerable success again this year working with authorities to improve the administrative fairness of their processes and one authority deserves particular recognition. I have previously commented on my concerns with the administration of the Protection for Persons in Care (PPIC) program and the lack of progress made with the Department of Community Development to improve the administrative fairness of its investigative process into allegations of abuse of patients in long-term care facilities. In November 2004, the PPIC program was moved to the Department of Seniors and Community Supports. I subsequently met with the Deputy Minister of Seniors and Community Supports, Ken Wilson, and am pleased to report significant progress has been made: a new investigative process is under development for implementation in 2005. I was consulted during development and am quite satisfied the new process sets the foundation which, if properly implemented and monitored, should address many of the concerns we have identified over the past few years. This is a difficult environment for patients, their families and caregivers in the facilities. Therefore, it is important that allegations of abuse are investigated in a fair and transparent manner. The AISH program has also moved to Seniors and Community Supports and we have experienced similar progress to ensure this program is fairly administered. Seniors and Community Supports is demonstrating the positive evolution in public service from a regulatory function to a more supportive and enabling approach to dealing with complaints from Albertans. It is to be applauded for its focus on fair administration of programs and services.

Edith Baraniecki, Director, Protection for Persons in Care (PPIC) program, has been helpful in providing information pertinent to investigations and the changing direction within PPIC.

I continue to be impressed by the efforts of staff throughout the various authorities we investigate to recognize unfairness where it exists and cooperate

with affected citizens and this Office to rectify the problem. We are acknowledging the efforts of some of those deserving people in this report.

Challenges

Janet Tall, Assistant to the Executive Director of Learner Assistance, Advanced Education, recognizes student needs and provides answers.

In my report last year I commented on the extension of my jurisdiction to include complaints regarding the Patient Concerns Resolution Processes administered by the Regional Health Authorities as well as complaints about processes regulated under the *Health Professions Act*. I expressed concern that little progress had been made by the Department of Health and Wellness to pass the regulation and schedules necessary for the Ombudsman to provide independent investigations in these jurisdictions. This year I met with officials from Health and Wellness on several occasions to further these initiatives. Unfortunately, little progress has been made. To date, schedules have been passed to bring only 11 of the 28 health profession colleges under the *Health Professions Act* under my jurisdiction, which is an increase of only one since last year. Health and Wellness has advised it hopes to complete all required schedules by March 2006. The regulation required to establish the Patient Concerns Resolution Processes within the Regional Health Authorities, which would then extend my jurisdiction to investigate the results of those processes, has still not been passed although I have been consulted and provided input into its drafting. I continue to work with Health and Wellness and the Health Quality Council of Alberta to advance these initiatives but remain concerned that progress has been very slow. These are areas of service where the involvement of the Ombudsman can contribute significantly to the transparency, and therefore the fairness, of the complaint resolution process.

Looking to the Future

Kathleen Ruelling, Government Relations Advisor, Workers' Compensation Board, is thorough in her responses and exhibits a strong will to seek solutions.

Generally speaking, the public service is evolving toward addressing complaints from the citizens it serves by focusing on early resolution of problems. As a result, more public servants see themselves as working for the people and promoting public welfare. As a mechanism of oversight of the public service, the Ombudsman's Office must also change to integrate with this new focus. We have centered our attention on continuous improvement by developing the Strategic Business Plan 2005 - 2008 for the Office of the Ombudsman, an abbreviated version of which is included in this report. This was the culmination of a collaborative effort by all staff in this Office with input from key stakeholders and assistance from outside consultants and other provincial Ombudsman Offices. The result is a clear set of goals and objectives aligned with our business strategy including key initiatives and performance management metrics that will ensure we continue to improve the services we provide in Alberta. Our objectives continue my focus on problem resolution for complainants, contributing to the continuous

improvement of administrative procedures and practices within jurisdictional authorities and building a strong, competent and dedicated team in our Office. I am confident this business plan will act as a compass to help guide the Office to success in the coming years.

We have undertaken a number of innovations and restructuring initiatives this year to focus on excellence in investigations and obtain the best results possible for complainants and authorities. We have introduced Alternative Complaint Resolution (ACR) and Informal Resolution techniques as tools to solve problems quickly to the benefit of everyone involved. I have also created the position of Deputy Ombudsman which is filled by Georgeann Wilkin. She now has full responsibility for all investigations in both Edmonton and Calgary Offices. This change gives us more continuity in the investigative process while providing guidance and oversight in the pursuit of quality investigations.

The coming year will be a progressive one for this Office. Several initiatives we have been working on over the past year will yield results in 2005. We have implemented a new investigative planning and reporting framework to improve the quality of our investigations and outcomes. We have established performance standards in the Strategic Business Plan to shorten timeframes for investigations and improve the quality of interaction with citizens and authorities. We have implemented ACR techniques to give us more flexibility to resolve complaints and be more responsive to complainants. We are in the midst of the development of a comprehensive communications strategy which will enable us to communicate our role, responsibility and capabilities to all audiences and ensure citizens who could avail themselves of our services know how to do so, easily and efficiently.

Kevin Quail, Senior Manager, Collections Unit, Maintenance Enforcement Program, demonstrates a willingness to find solutions for clients of the program.

We recently completed an update of our information management system which was outdated and incapable of providing all our performance management indicators. We have partnered with the British Columbia Ombudsman Office to update our current technology in a very cost-efficient manner that will meet our needs for many years to come. We are also laying the foundation to migrate to an electronic records management environment as such systems evolve within the Alberta public service.

This fall we are awaiting the report and recommendations from the MLA Task Force on Continuing Care Health Services and Accommodation Standards in Alberta which has been examining the situation within long-term care facilities. I have written to the Task Force to explain the external and independent oversight this Office can provide as part of the larger response on this matter. We expect the Task Force will comment on the role of the Ombudsman in bringing fairness and transparency to these processes that provide protection for patients in long-

term care facilities through our jurisdiction over the PPIC program and our future involvement with Patient Concerns Resolution Processes within the Regional Health Authorities.

In the coming year I intend to continue my priority of bringing the Ombudsman closer to the people and enhancing the public's knowledge and understanding of our services. I will be making presentations to a wide variety of audiences to explain what we do and how we do it. We will also pilot an outreach initiative to go into various rural Alberta communities to provide citizens with personal access to the Ombudsman and investigators.

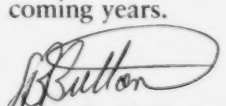
I am looking forward to an exciting year and we are moving into it with optimism. We will continue to focus on fairness for all citizens through the commitment of the Alberta public service and professional organizations to support the needs of Albertans. However, we are experiencing a significant change in personnel. While the new staff bring a vast array of experience and enthusiasm, it will take time for them to develop the specific skills and knowledge necessary to become familiar with the programs, services and processes we investigate. The complexity and number of complaints is increasing and we can anticipate added work as our jurisdiction over the Health Professions and Patient Concerns Resolution Processes of the Regional Health Authorities evolves. As a result, it will be a challenge to meet the performance standards we have set for ourselves this year and we may have to further expand our investigative staff in the near future to handle the workload within acceptable timeframes.

Mike Tholenaer, Executive Director, Adult Centre Operations Branch, Solicitor General and Ministry of Public Security and his centre directors are willing to solve inmate complaints through participation in our Alternative Complaint Resolution process.

The Alberta Ombudsman Office is entering a new era of expanding jurisdiction, significant personnel changes and ever increasing demands for efficient and effective external and independent oversight of administrative processes and services provided by Alberta government departments and those professional organizations within our jurisdiction. The basic function of the Ombudsman is to recognize what is unfair and to find ways to rectify it, or as Chief Justice J.V.H. Milvain said over 30 years ago:

> *"(the Ombudsman) can bring the lamp of scrutiny to otherwise dark places, even over the resistance of those who would draw the blinds."*

I remain committed to continuing to provide that capability to all Albertans in the coming years.



G.B. (Gord) Button
Ombudsman

Strategic BUSINESS PLAN 2005-2008

PREPARED BY: G. B. (GORD) BUTTON, OMBUDSMAN, LEGISLATIVE ASSEMBLY OF ALBERTA

This is an abbreviated version of the Strategic Business Plan. For the full Strategic Business Plan please refer to www.ombudsman.ab.ca and click on Publications and Reports.

INTRODUCTION

When I assumed the position of Ombudsman for the Province of Alberta, I inherited an Office and staff that was performing in a satisfactory manner and providing a valued service to the Legislative Assembly of Alberta and its citizens. However, I observed the Office needed a strategic focus which reflected a thorough analysis of the key contributors to stakeholder value. Those key contributors are:

- Clarity of roles, organization design and leadership;
- Capability developed through training, development and succession planning; and
- Commitment to priorities developed through performance management and alignment of rewards and recognition with organizational priorities.

Attention to these key factors leads to accountability and a focus on critical success factors which are based on a clear understanding of our Vision, Mission and Values. The end result is enhanced stakeholder value. The vehicle which will take us there is a well developed business strategy as outlined in this Strategic Business Plan.

The process by which the Strategic Business Plan for the Office of the Ombudsman has been developed has been one which involved the entire staff of the Office in inclusive dialogue, discussion and assessment of environmental factors and key internal factors. In addition, we have benefited from the input of key stakeholders, Ombudsman in other jurisdictions and recognized experts in organizational design and business planning. This resulted in an agenda to develop our Strategic Business Plan that included:

- A review and update of our Vision, Mission, and Values;
- An analysis of our Strengths, Weaknesses, Opportunities and Threats (SWOT analysis);
- Environmental scanning;
- Stakeholder input;

- Development of Goals, Objectives and Key Initiatives; and
- Evolution of a scorecard and measures.

With a clear understanding of our Mission, clarity of our role and responsibilities, and a commitment to creating value for our stakeholders, this three-year Strategic Business Plan will be the compass that guides the Office of the Ombudsman from 2005 to 2008.

It is my pleasure to offer this Strategic Business Plan on behalf of all staff of the Office of the Ombudsman for the Legislative Assembly of Alberta.

G. B. (Gord) Button
Ombudsman, Legislative Assembly of Alberta

Strategic BUSINESS PLAN 2005-2008

This Strategic Business Plan provides an overview of the Goals, Objectives and Key Initiatives that will provide future direction for the Office. It will be reported on and updated annually to maintain our focus on continuous improvement.

A. Role and Responsibility

The Office of the Ombudsman for Alberta is established by statute under the *Ombudsman Act*, RSA 2000, Chapter 0-8. The Ombudsman is an Officer of the Legislative Assembly of Alberta. The Office and position were established in 1967 and this was the first provincial Ombudsman of general jurisdiction in Canada.

There are three principle factors which define a parliamentary or classical Ombudsman and distinguish this Office from others which use the title of Ombudsman. To be held to be a parliamentary Ombudsman, the Office must:

- be established by Charter, Constitution or Statute;
- be empowered to act independent of the appointing authority; and
- be structurally free from the entities or agencies it is investigating.

These principles are recognized internationally. This Strategic Business Plan will guide the activities of this Office and provide a framework for administrative answerability for the Ombudsman without impinging on the independence of the Ombudsman from the appointing authority.

By virtue of the *Ombudsman Act*, the Ombudsman has authority to investigate allegations of administrative unfairness by government departments, agencies, boards and commissions. In addition, the Ombudsman's jurisdiction extends to the administrative processes of professions governed by the *Regulated Accounting Profession Act*, the *Regulated Forestry Profession Act* and the *Veterinary Profession Act*. The *Health Professions Act* provides a framework to give authority to the Ombudsman to investigate allegations of administrative unfairness against the health profession colleges. The Ombudsman is granted investigative authority over each college as the schedule for each college comes into force. To date, the Ombudsman has been given authority to investigate complaints about 11 of the 28 colleges. In addition, amendments to the *Ombudsman Act* passed in May of 2003 provide a framework for the Ombudsman's investigative authority to extend to Patient Concerns Resolution

Processes in the Regional Health Authorities and the Alberta Cancer Board. This further extension to the Ombudsman's investigative authority will occur when the regulation under the *Regional Health Authorities Act*, administered by the Department of Health and Wellness, is passed. This is anticipated to occur in 2005.

The Ombudsman is often described as the "Watchdog for Administrative Fairness." This role is accomplished by pursuing informed objectivity to serve citizens. The Ombudsman is neither an advocate nor an adversary. Rather, he attempts to resolve problems and conflict through impartial, objective and neutral investigations of the facts. This results in a conflict resolution orientation which focuses on solving the problem and improving administrative practices rather than affixing blame. The emphasis is not on the complainant or the entity being investigated, it is on fairness.

The Ombudsman may commence an investigation upon receipt of a written complaint by any person or on his own motion. Additionally, any Committee of the Legislative Assembly or any Minister may refer a matter to the Ombudsman for investigation.

B. Core Business

The core business of the Ombudsman is the investigation of incidents of alleged maladministration leading to problem resolution and improvement of administrative practices of jurisdictional entities.

C. Vision, Mission and Values

Through a series of meetings, brainstorming sessions and facilitated workshops, the staff of the Office reassessed and updated the Vision, Mission and Values that guide us. This assisted in focusing on the clarity, capability and commitment that will lead to accountability and value added outputs for our stakeholders.

VISION

The Office of the Alberta Ombudsman is the recognized leader for independent investigation, promotion and support of administrative fairness.

MISSION

The Office of the Alberta Ombudsman independently and impartially promotes high standards of administrative fairness through investigations, recommendations for change and education.

VALUES

To obtain our Vision and deliver our Mission, our Values are fundamental to all our interactions and communications.

We Value:

- Fairness
- Competency
- Respect
- Integrity
- Equity
- Confidentiality

We also value a working environment that fosters personal and professional growth and development, collaboration and teamwork, and innovation and creativity.

D. SWOT Analysis

The SWOT Analysis identified the perceived Strengths, Weaknesses, Opportunities and Threats of the organization. It provides a basis for the identification of Goals, Objectives and Key Initiatives in the Strategic Business Planning process. It should be noted that this analysis reflects a cross section of input from all staff and also incorporates the outcomes of a professionally facilitated workshop arranged to focus on our planning process.

Strengths – Can be leveraged to reach the Vision

- Dedicated, experienced staff
- Flexibility of work environment
- Good reputation and credibility with authorities
- New management and a fresh direction
- Healthy workplace – security, benefits, systems, programs

Weaknesses – Must be improved upon to meet our Vision

- Lack of public awareness of the Ombudsman in Alberta
- No proactive investigations in recent years (Ombudsman "own motion"/ ministerially ordered investigations)
- Perception of a lack of resources
- Lack of effective business planning, implementation and measurement
- Need for better internal communication and team building
- Turnover of personnel and requirement to orient/train new staff

Opportunities – Help establish priorities to reach our Vision

- Success of recent public awareness initiatives
- Expanded and enhanced services – Alternative Complaint Resolution (ACR)
- Recent changes to the *Ombudsman Act* – new jurisdictions
- Build on internal efficiencies
- Increased use of technology
- New staff – realignment to investigative capacity
- New management personnel and structure

Threats – The challenges or risks

- Resistance to the change process
- New roles, responsibilities and processes
- Increasing complexity of investigations and new jurisdictions
- No Strategic Business Plan or performance measures
- Low public awareness, confusion about the role of the Ombudsman
- New staff with limited directly-related investigative experience

E. Goals

Goals are defined as the long-term results we want to achieve in fulfilling our mandate.

They are:

- High quality service
- Fair and accountable administration
- Alignment of resources, policies and processes
- Public awareness and education

F. Objectives

Objectives are defined as the core business objectives we must succeed at to accomplish our Goals.

They are:

- Manage the workload in an efficient and effective manner
- Pursue excellence in investigations
- Improve morale, workplace wellness, and competency through communication, new hires, self development, training, performance management and adherence to our Values
- Enhance the knowledge and understanding of the role of the Ombudsman

The Goals and Objectives are interrelated as depicted in the following matrix.

VISION The Office of the Alberta Ombudsman is the recognized leader for independent investigation, promotion and support of administrative fairness.				
OBJECTIVES	GOALS			
	High Quality Service	Fairness and Accountable Administration	Alignment of Resources, Policies and Processes with Core Business Objectives	Public Awareness and Education
Manage the workload in an efficient and effective manner	X		X	
Pursue excellence in investigations	X	X		
Improve morale, workplace wellness and competency through communication, self-development, training, performance management and adherence to our Values	X		X	
Enhance the knowledge and understanding of the role of the Ombudsman		X		X

Operational OVERVIEW

This year the Office of the Ombudsman has introduced several new methods and processes which are designed to increase the efficiency and effectiveness of Office operations. These processes are outlined below.

Informal Resolution

In many instances the first contact an individual has with the Office of the Ombudsman is a telephone call. The caller provides a description of their concern to the intake officer. On occasion it is apparent to the intake officer that a phone call inquiry from this Office may resolve the issue. This approach, referred to as Informal Resolution, was introduced to the Office of the Ombudsman in 2005. Of the 540 jurisdictional phone inquiries received in this period, 28 were resolved informally.

Many of the informally resolved issues were about inaction of a department, either a lack of response or an incomplete response to a complainant. Intervention by the intake officer resulted in the department taking the required action on the issue or providing the requested response.

Alternative Complaint Resolution

In order to resolve complaints efficiently and effectively, the Office of the Ombudsman established an Alternative Complaint Resolution (ACR) process in 2005. In some cases, this process can result in a better and more timely resolution for the complainant and the department than what could be achieved through the traditional formal investigation process. This initiative has met with support from Deputy Ministers and administrative heads of agencies and professional organizations that can be investigated by the Office.

Once it has been determined the complaint can be investigated, the Ombudsman may proceed with ACR if the following criteria are met:

- Potential for success,
- Simplicity of issue(s),
- Complainant and department are receptive to the approach,
- No reasonable referral to another remedy, and
- Reasonable chance of resolution within 21 days.

If ACR is unsuccessful the complaint may be referred for formal investigation.

Between November 2004 and March 2005, 24 files were referred to ACR. Nearly 63% (or 15) files, resulted in a resolution satisfactory to the complainant and the department. The remaining nine files were either referred for formal investigation, were discontinued by the Ombudsman or at the request of the complainant.

A successful ACR file involved a matter between a family and a decision of the provincial Persons with Developmental Disabilities Board. The investigator assisted in facilitating an agreement between the family and the service provider. Other matters were resolved by facilitating the sharing of additional information, providing explanations and answering questions between individuals and departments to resolve disputed issues.

Many of the issues referred to ACR were raised by inmates in provincial correctional centres. In some instances the centre director was able to resolve an inmate's concerns once additional information was provided. In other cases, matters were referred to investigation as the parties could not reach an agreement.

We appreciate the efforts of staff members in many departments as they attempt to resolve matters informally or through ACR. Although their efforts are not always successful, it is rare the attempt is of little benefit to either party. It is hoped the future will bring an expansion of both these initiatives.

Investigative Processes

With a number of new investigators in the Office and an increase in complexity of the issues being investigated, a team of investigators has developed standardized Investigative Planning and Reporting processes and formats. This new process assists the investigators and members of the Senior Management Team to focus on key issues of complaint and ensure the investigation is carried out in an efficient, logical and systematic manner, resulting in analysis, conclusion and recommendations on each of the issues identified.

As indicated in this report, future reporting will include total numbers of issues investigated and subsequent recommendations on each issue as well as the total number of files investigated. This will more accurately reflect areas where administrative errors were identified and remedied.

Senior Management Team Review of Supported Complaints

In consultation with the Deputy Ombudsman, the investigator regularly reviews the progress of an investigation. The file is referred to the Senior Management Team (SMT) for review when a file has issues which are likely to be supported and it is about to be concluded with recommendations to the department, board, authority or professional organization, or when the investigator seeks advice from the SMT. Issues are discussed by the SMT and occasionally further information or clarification is requested. The SMT then makes a decision regarding the final disposition of the file.

A Year in REVIEW

APRIL 1, 2004 THROUGH MARCH 31, 2005

4753 Oral complaints received, up 15% from 2003/2004
627 Written complaints received, up from 617 in 2003/2004

167 Files carried forward from previous years
515 New files opened
197 Total files investigated
- 14% Supported
- 22% Partially supported
- 50% Unsupported
- 14% Discontinued

221 Total files not investigated
- 55% Referred to other remedy or appeal
- 24% No authority to investigate
- 9% Information requests
- 7% Declined on discretionary grounds
- 5% Otherwise resolved (without completing a full investigation)

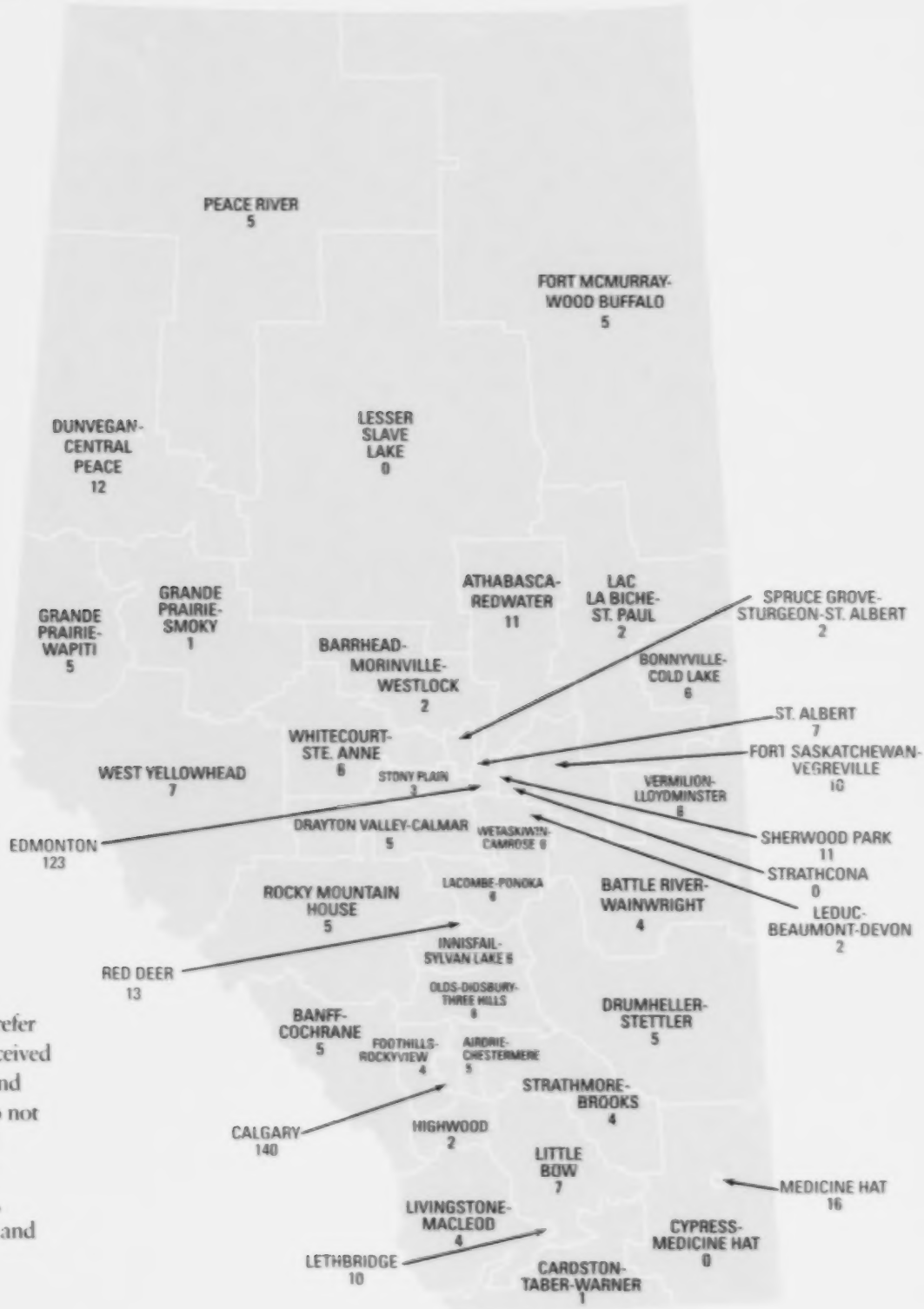
418 Files closed as of March 31, 2005
264 Files carried forward to next year

25 Files sent to Alternative Complaint Resolution (ACR) process
15 Successfully resolved through ACR
- 7 Correctional Services files
- 2 Maintenance Enforcement Program files
- 1 file each from Assured Income for the Severely Handicapped program, Agriculture Financial Services Corporation, Advanced Education, Appeals Commission for Alberta Workers' Compensation, Health and Wellness and Workers' Compensation Board.

**A NOTE ABOUT THE STATISTICAL SPREADSHEET:

In years past the annual report has included a two-page spreadsheet of Operational Statistics detailing complaints investigated and not investigated in every department, board, agency and professional organization under the jurisdiction of the Ombudsman. Following the realignment of many provincial departments after the 2004 provincial election, we cannot accurately reflect our statistics this year in light of those departmental shifts.

Complaints by GEOGRAPHICAL Region



PROVINCIAL ELECTORAL DIVISIONS as defined by the *Electoral Division Act*, 2003

The figures on the map refer to written complaints received between April 1, 2004 and March 31, 2005, and do not include complaints that originated in provincial correctional centres (98), federal penitentiaries (3) and out of province (42).

Department FEATURES

Solicitor General and Public Security: Correctional Services

The Department of the Solicitor General is responsible for Correctional Services, Aboriginal Justice, Public Security, the Criminal Injuries Review Board and the Law Enforcement Review Board. It is responsible for both adult and youth provincial correctional centres.

Most complaints received are from inmates in correctional centres who feel they have been unfairly treated by corrections staff. This year many of these complaints were successfully resolved through the Alternative Complaint Resolution process prior to reaching the formal investigation stage.

Investigative Summaries:

Supported complaint
An inmate complained he was not properly informed of the election procedure in accordance with the directives of the Chief Electoral Office of Elections Canada so that he could register to vote in the June 2004 federal election.

The Ombudsman's investigation determined the Liaison Officer at the correctional centre posted the notice for voting together with the poster from Elections Canada but did not post dates for the three-day registration period.

The centre director agreed with the findings of the investigation to support this complaint and has implemented a new procedure to ensure inmates are properly informed of voting procedures in future elections.

Unsupported complaint
An inmate alleged he was unfairly placed in administrative segregation and subjected to unfair security measures.

Upon investigation the Ombudsman determined the inmate had fled RCMP custody during court appearances on two previous occasions. Documentation revealed that while in the maximum security unit, the inmate exhibited unacceptable behaviour, including challenging staff, threatening others and damaging property. The investigation also determined the centre acted in accordance with Policy 11.10.03 Offender Conduct and Discipline in Segregation.

The application of this policy is reviewed every three days during the segregation period.

The Ombudsman further determined the inmate was considered a significant security risk and was therefore designated for special handling during segregation. This included the presence of two staff during transfers to and from court appearances as well as belly chains and shackles.

There was no evidence of administrative procedural error in this matter.

Justice and Attorney General: Maintenance Enforcement Program

The Justice Department is responsible for Criminal Justice, Court Services, the Medical Examiner, the Public Trustee and the Maintenance Enforcement Program (MEP). The MEP ensures individuals meet their obligations to pay spousal and child support under the terms of court orders and certain other agreements. The MEP has the legislative authority to take steps to enforce the support owed, including garnisheeing wages, registering restrictions at Land Titles and the Personal Property and Motor Vehicle Registries and denying passports. In Alberta there are more than 90,000 creditors and debtors and more than 63,000 children registered in the program. The MEP has established a Complaint Review Process (CRP) as an internal mechanism for responding to client complaints.

Investigative Summaries:

Partially supported complaint
A debtor's complaint about MEP actions resulted in several investigative issues: lack of explanation about a garnishee and lack of information regarding pertinent legislation, lack of reference to the CRP, denial of a request to speak to a supervisor and failure to require the creditor to return the debtor's overpayment.

The Ombudsman's investigation supported two of the five issues. The investigation revealed MEP did not address a request by the debtor regarding legislation appropriate to his situation nor did MEP refer the debtor to CRP. Both acts were determined by the Ombudsman to be administratively unfair and the Director of the MEP sent a written apology to the debtor which satisfactorily resolved his concerns.

On the remaining three unsupported issues, evidence showed the debtor was provided adequate explanation regarding the Court Order for the garnishee and the explanation was completed within MEP guideline timeframes. There was no evidence to support the debtor was denied the opportunity to speak to a supervisor. Finally, MEP has no legislative authority to force creditors to return money. However, the debtor was credited with the amount of the overpayment and restitution was realized through reduced monthly payments to the creditor.

Unsupported complaint
A debtor complained to the Ombudsman that MEP staff provided an inadequate response to his letters of concern and that the outcome of his complaint remained unknown to him.

The investigation found the debtor had a long history of aggressive and verbally abusive interactions with MEP staff to the extent that he was banned from contacting MEP by telephone.

Evidence showed the complainant was provided with a very detailed and explicit response to his concerns, including reference to MEP's specific policy of Zero Tolerance for abusive behaviour and Restricted Access to Services at MEP as the result of profanity, hostility or other disrespectful language toward MEP staff and repeated correspondence addressing the same issues. The complainant was given further direction and referrals to legal counsel and agencies to address his concerns.

As the process was found to be administratively fair, the Ombudsman could not support this complaint.

Seniors and Community Supports: Assured Income for the Severely Handicapped

Following the 2004 provincial election, several programs were m
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As the process was found to be administratively fair, the Ombudsman could not support this complaint.

Seniors and Community Supports: Assured Income for the Severely Handicapped

Following the 2004 provincial election, several programs were moved to the new Seniors and Community Supports Department. One of these programs is Assured Income for the Severely Handicapped (AISH), which continues to generate a significant number of complaints to the Office of the Ombudsman. AISH provides financial and health benefits for adult Albertans with a permanent disability that severely impairs their ability to earn a living. About 32,000 Albertans receive AISH.

32% due to mental illness, 23% due to developmental disabilities and 45% due to various physical disabilities.

Investigative Summaries:

Supported complaint
An AISH recipient complained that AISH staff unfairly collected an overpayment that was made as the result of a calculation error by AISH staff. The recipient appealed the AISH decision to collect the overpayment to the AISH Citizens' Appeal Panel (CAP) which upheld the original decision, even though they found the overpayment was an error by AISH staff and not the fault of the recipient.

The Ombudsman's investigation determined the CAP decision was unfair because it failed to show how it dealt with the person's argument that since the person was not at fault for the situation that caused the overpayment, the person should not be required to pay back the money. The CAP determined that overpayments, regardless of cause, cannot be forgiven.

The Ombudsman supported the complaint and made several recommendations that the Deputy Minister agreed to implement. AISH policy was amended to ensure clear references are made to proper legislation, regulation and policy and AISH staff were issued a written reminder about the importance of income verification and proper benefit calculation. A new CAP was struck giving the recipient the opportunity to present arguments at a new hearing. In this case, it was determined the overpayment would not be collected.

Unsupported complaint
An AISH recipient complained that AISH staff found him ineligible for an additional dental procedure and that referring him to a Citizens' Appeal Panel (CAP) was meaningless since the CAP had no authority to go beyond the provisions of the agreement for treatment with the Alberta Dental Association (ADA).

Evidence showed AISH policy requires staff to advise clients of their appeal rights when they receive an adverse decision. Staff must advise clients that while they have the right to appeal a decision to the CAP, the CAP must take the position it has no power to overrule legislation.

The CAP determined it had jurisdiction to hear the appeal of the decision to deny additional funding, but it also ruled it had no authority to grant additional

benefits beyond those covered by the agreement between AISH and the ADA. As there was no indication of administrative unfairness, the issue was not supported.

A secondary issue arose regarding the behaviour of the CAP and whether it is obliged to ensure the Alberta Dental Services Corporation (ADSC) had considered all available information regarding the necessity for an additional dental procedure to maintain the health of the AISH recipient and what weight the ADSC gave to the information it received. An analysis of the CAP decision determined the CAP properly addressed the issue and made a decision that was in compliance with policy and legislation. No evidence existed to support this issue.

Seniors and Community Supports: Protection for Persons in Care

Moved to the Department of Seniors and Community Supports from the Department of Community Development following the 2004 provincial election, the Protection for Persons in Care (PPIC) program investigates reports of alleged abuse or safety concerns for adults in publicly funded care facilities including hospitals, seniors' lodges and nursing homes. The *Protection for Persons in Care Act*, enacted in 1998, requires that any suspicion of abuse is reported to an appropriate authority. There have been approximately 3,200 allegations of abuse reported since the *PPIC Act* came into force. About 65% of the complaints were dismissed due to insufficient evidence of intent on the part of the alleged abuser and/or harm to the client, or a determination the complaint was unfounded.

Investigative Summaries:

Supported complaint

A complex complaint was received from two individuals accused of abusing a person in care. The complainants alleged they were given inadequate opportunity to defend themselves or to face the accuser and that conclusions were drawn and recommendations made without full knowledge of the facts of the situation. The complaint identified six separate issues:

1. Did the alleged abusers have a clear understanding of the allegations against them?
2. Did the alleged abusers have adequate opportunity to provide information to the investigator and to give evidence on their own behalf?
3. Were the alleged abusers denied the right to face the accuser?
4. Did the PPIC investigation establish "intent" as defined in the *PPIC Act* to

reach the conclusion regarding the inappropriate administering of medication?
5. Did the PPIC investigation consider all evidence to support the conclusion of emotional abuse regarding the denial of pain medication?
6. Was there sufficient evidence in the PPIC investigation to support its recommendation of a review of the guardianship order?

While the Ombudsman's investigation found that PPIC conducted its investigation in accordance with the *PPIC Act*, it also determined there were several occurrences of administrative unfairness throughout the process:

1. Evidence showed the PPIC investigator did not advise the alleged abusers of specific allegations against them.
2. The alleged abusers were interviewed via telephone and were not given the opportunity to provide information to the investigator, which violates one of the basic principles of natural justice. As a result, the investigator did not review what the accused believed to be relevant supporting information. In a face-to-face meeting the alleged abusers would have been able to give consent to access the patient's medical file which contained additional information.
3. While the alleged abusers were not given the opportunity to face their accuser which is not an automatic right, the administrative unfairness occurred in the failure to provide sufficient detail of, and time to respond to, the allegations.
4. The Ombudsman's investigation found the PPIC investigator did not have all available evidence to draw the conclusion that abuse occurred through the inappropriate administration of a drug. The investigation found the PPIC investigator did not make reasonable efforts to obtain consent to access the health record or contact the prescribing physician.
5. There was no evidence found that the PPIC investigation established "intent" by reaching its conclusion regarding the alleged inappropriate pain medication administration.
6. Given the inadequacies identified in the PPIC investigation, its recommendation that a review of the guardianship order was required was questionable.

The combined effect of these instances of administrative unfairness raised a serious concern about the overall fairness and outcomes of the original investigation. As a result, the Ombudsman recommended the assignment of a new investigator to conduct a new investigation into these allegations. The Deputy Minister agreed to implement this recommendation.

Furthermore, as noted in the Message from the Ombudsman, the department implemented a review to explore how administrative fairness principles could be incorporated into future investigations. This culminated in significant changes to PPIC's investigative procedures which will be implemented in 2005. These changes, if properly implemented, will address many of the systemic concerns identified by the Ombudsman as a result of investigations conducted over the past few years.

Board, Agency and Professional Organization

FEATURES

WORKERS' COMPENSATION BOARD

The Workers' Compensation Board (WCB) is a not-for-profit mutual insurance corporation funded entirely by employers. They provide cost-effective workplace liability and disability insurance to more than 1.4 million workers and 106,000 employers in Alberta, thereby protecting workers and employers from the full impact of work-related injuries and illnesses. In 2003, WCB handled 155,684 new claims; approximately 37,500 of those claims involved time off work.

Investigative Summaries:

Partially supported complaint

A complaint was received from a worker which identified 11 separate issues with a WCB claim. These issues were broken down into two categories: delays and lack of response by WCB staff, and secondly, improper treatment.

Delays and lack of response accounted for eight issues including delay of personal coverage, requests for medical reports sent in previously, lack of response to letters, lack of contact to obtain medical reports and lack of response to telephone messages. Three issues of improper treatment included interruption of physiotherapy, cancellation of physiotherapy and allegations the case manager offered the complainant a bribe to quit the program.

The Ombudsman's investigation supported four of the 11 issues:

1. There was an unreasonable delay in confirming the complainant's personal coverage.
2. There was a failure to respond to a letter by the complainant and a further unreasonable delay to issue more benefits after the initial benefit cheque.
3. There was a substantial delay in acknowledgement of medical reports.
4. Several delays occurred around investigating allegations the client was working, delay in responding to medical advice, delay in responding to the client's lawyer and a delay acknowledging a medical report to the client's lawyer.

WCB sent a letter apologizing to the complainant and management reminded staff of the department's expectations on time lines and the necessity to document reasons for a decision on file.

Unsupported complaint
A worker complained the WCB refused to consider a Permanent Partial Disability pension for an injured knee. Ten years previously the WCB accepted responsibility for the knee on a rehabilitation basis only, meaning it would not accept responsibility for further knee problems.

The worker's representative attempted to appeal the decision but was told the time available for appeal had passed and the Decision Review Body (DRB) refused to waive the time limitation to allow an appeal.

The Ombudsman's investigation identified two issues: did the DRB refuse to consider new evidence, and secondly, a letter from the WCB threatened the worker with an overpayment if he did not agree to rehabilitative surgery and did not inform him of his right to appeal.

The investigation did not find administrative unfairness on either issue: evidence presented by the worker's representative existed at the time of the initial claim determination and no new information was present. Secondly, the worker and his representative misinterpreted the letter regarding the rehabilitative surgery. The letter should have informed the worker of his right to appeal, but whether he was properly informed by the letter or not, information on file demonstrated the worker knew the avenues for appeal.

Appeals Commission for Alberta Workers' Compensation

The Appeals Commission is separate and independent from the WCB. It is a quasi-judicial administrative tribunal made up of Commissioners who hear appeals from people who are dissatisfied with rulings made by the WCB and reports directly to the Minister of Human Resources and Employment. In the first six months of fiscal 2005/2006, the Appeals Commission received 607 new appeals. Of all appeals finalized during that period, 54% upheld the findings of the Decision Review Body.

Investigative Summaries:

Supported complaint
The Ombudsman investigated a case where a number of concerns were identified with a 1997 Appeals Commission decision document. The document contained several errors in communication, including an incorrectly identified hearing date and the incorrect date of the compensable accident, inaccurate referencing of medical reports and incomplete supporting documentation.

The Ombudsman fully supported the complaint and identified the administrative errors, referring the findings back to the Appeals Commission which referred the matter to a Reconsideration Threshold Hearing Panel. The Panel adequately

applied the Rules of Procedure governing the Appeals Commission and determined the errors were not substantial enough to affect the outcome of the original Appeals Commission decision.

Unsupported complaint
A complainant brought forward three issues which were investigated by the Ombudsman:

1. The complainant said he was unfairly determined to be fit for modified work offered by the employer.
2. The complainant said he was denied WCB sponsorship for academic training.
3. The complainant said he was denied entitlement to a Non-Economic Loss Payment (NELP), a payment made when there is recognition that a permanent clinical impairment may also impact the worker's life outside the workplace.

The Ombudsman did not support any of these issues. On the matter of modified work, the Ombudsman found the Appeals Commission had carefully examined the entire criterion and reached a reasonable decision. On the academic training issue, it was found the complainant was offered a job by his pre-accident employer at the same rate of pay so was ineligible for academic training sponsorship.

On the NELP issue, it was found that while the conclusion was logical based on the evidence, there was concern about the determination that the decision was final even though the worker's injury had not yet reached a measurable plateau. However, the complaint itself could not be supported.

Health Professions

Over the past four years the Ombudsman's jurisdiction has expanded to include professional regulatory colleges under the *Health Professions Act*. To date, 11 of 28 health profession schedules have been proclaimed, giving the Ombudsman authority to investigate Professions of Dentists, Denturists, Dental Technologists, Hearing Aid Practitioners, Licensed Practical Nurses, Medical Laboratory Technologists, Optometrists, Registered Dieticians and Registered Nutritionists, Social Workers, Speech-Language Pathologists and Audiologists and Medical Diagnostic and Therapeutic Technologists and Electroneurophysiologists.

Investigative Summaries:

Supported complaints
The Ombudsman received two separate complaints regarding actions undertaken by the Alberta Dental Association and College (ADA&C).

In one case, a complainant said the ADA&C unfairly delayed a decision following the Complaint Review Committee's direction for further investigation following the dismissal of a complaint and that there was a lack of communication from the ADA&C on the file. The other complainant indicated the ADA&C did not conduct an investigation into her complaint against her dentist and the person conducting the alternative complaint resolution process treated the complainant unfairly.

The Ombudsman's investigation uncovered evidence to support both complaints. In the first case, evidence showed the ADA&C made administrative errors by not giving the dentist a time stipulation for response to a complaint, the complainant was not provided an opportunity to present additional supporting information, there is no reference in correspondence to the complainant to the relevant provisions of the *Health Information Act* or the *Health Professions Act* and no acknowledgement was made (either verbally or in writing) by the ADA&C to correspondence from the complainant.

In the second case, while the Ombudsman could not support the allegation that there was no investigation undertaken, the issue around the lack of opportunity to be heard was supported. Evidence showed the ADA&C's investigation was conducted based solely on the information in the complainant's original letter as well as a response from the dentist. At no time was the complainant offered the opportunity to supply additional information.

The Ombudsman also found administrative errors around lack of timelines for responses and a lack of regular updates on the status of the investigation.

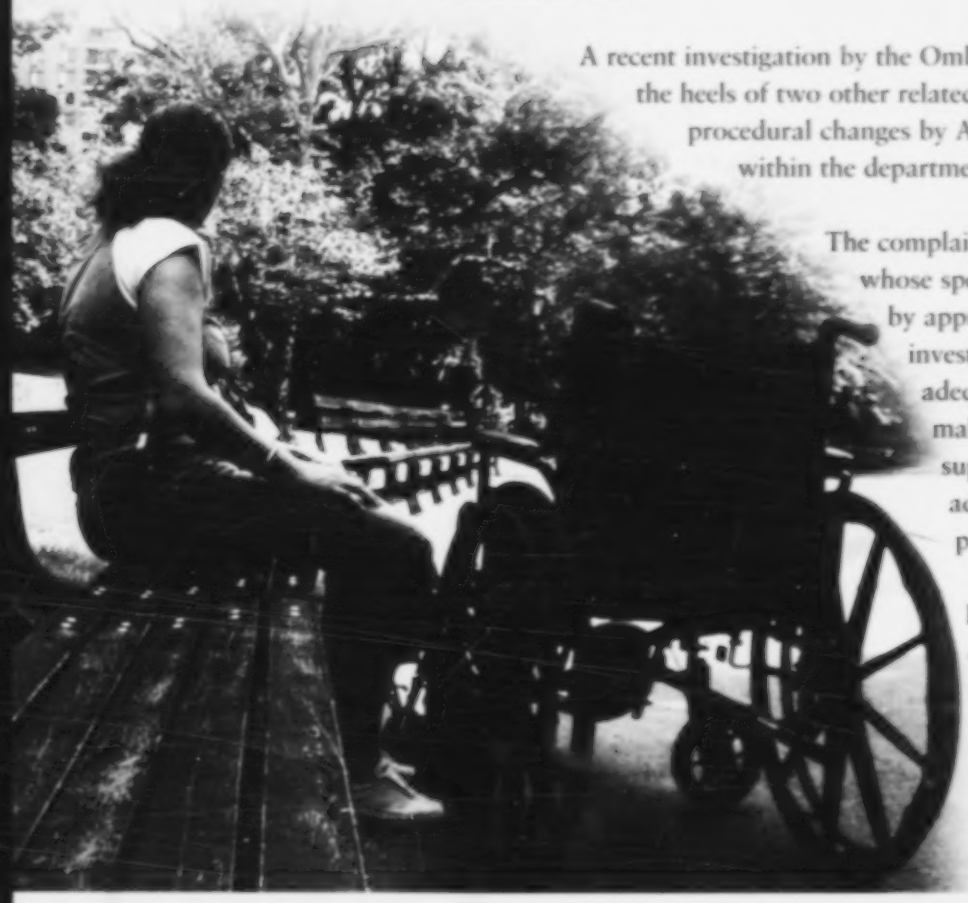
The Ombudsman met with ADA&C officials to discuss the complaint resolution process, focusing on the improvement of administrative fairness in the process rather than affixing blame. The ADA&C agreed and proposed in future, they provide the complainant with a copy of the dentist's response to the complaint and an invitation to provide additional information. ADA&C also accepted the Ombudsman's recommendations regarding timing and contents of communication to complainants.

Key Case FEATURES

The regular process of complaint investigation may also reveal the need for policy and procedural changes within a department when systemic issues of unfair treatment are identified. Our efforts to encourage fairer processes support our mission of ensuring Albertans are treated fairly, equitably and with respect. Following are several examples of the Ombudsman's Office effecting positive procedural change through our investigative process.

Seniors and Community Supports: Alberta Aids to Daily Living

Formerly a program of Health and Wellness, Alberta Aids to Daily Living (AADL) was transferred to Seniors and Community Supports in April 2005. The mandate of AADL is to provide financial assistance to people who have a chronic disability or illness, or are terminally ill, so they can gain access to basic medical equipment and supplies which allows them to function more independently in a home or home-like setting.



A recent investigation by the Ombudsman, which followed closely on the heels of two other related investigations, resulted in several procedural changes by AADL to create fairer processes within the department.

The complaint involved an AADL recipient whose specific medical supplies were reduced by approximately 30%. The Ombudsman investigated two issues: did the AADL adequately communicate its decision to make the reduction in the amount of supplies and was the complainant adequately notified of the appeal process to appeal the decision?

Previous investigations of related complaints resulted in a commitment by AADL to review some of its appeal and review processes. While the reviews took place and changes were made, AADL did not follow up on a suggestion by the Ombudsman that Terms of

Reference be created for the AADL director who hears appeals of decisions made by the Quantity and Frequency Review Committee (QFRC). The suggestion of the Ombudsman at the time stopped short of being a recommendation.

The complainant in this case was approved for a quantity of supplies which far exceeded the standard amount. By policy, approvals are reassessed every two years by an "authorizer", who, in this case, was an employee of the Regional Health Authority. The authorizer communicated her findings to a provincial AADL employee who approves supplies based on standard amounts identified in the AADL Authorizer Manual. Any requests which exceed the norm by 1.5 times or more are automatically referred to the QFRC for review.

The Ombudsman's investigation revealed the applicant was not made aware her file was referred to the QFRC. Further, it was found the QFRC decision was communicated directly to the authorizer, who was expected to communicate and explain the QFRC findings to the applicant. It was also found the applicant was not informed, in writing, of her right to appeal the QFRC decision, nor was she advised of the time limit restrictions to appeal. Finally, the QFRC decision did not identify the decision makers and the reasons given for the decision were not adequate.

AADL agreed with many of the Ombudsman's recommendations and took steps to create fairer processes. These included:

- Copying the client on correspondence from the QFRC sent to the authorizer.
- Requiring the QFRC chair to sign the decision correspondence.
- Further revising the QFRC Terms of Reference, including clarifying the role of the AADL consultant, communicating directly and clearly to the person affected by the decision, relating evidence to policy and indicating how the evidence was weighed, identifying time limitation on appeals and when that time period begins.
- Creating a Flow Chart of the approval process, including the appeal process.
- Creating an Appeal Process document entitled Alberta Aids to Daily Living Program Appeal Process for Decisions of Quantity and Frequency Review Committee.
- Creating Terms of Reference for the director who hears appeals of QFRC decisions.
- Updating the Authorizer Manual to be compatible with other documents now in place.

It should be noted AADL is taking the initiative of its own volition to address these issues and create an appeal process for QFRC decisions in order to meet the requirements of administrative fairness. AADL is demonstrating a clear commitment to quality service by its actions.

Solicitor General & Public Security

As the result of a complaint, the Ombudsman and the Deputy Solicitor General engaged in correspondence relating to recommendations made to improve the department's handling of employee harassment allegations.

The investigation of issues specific to the complainant identified several systemic issues within the process. The Ombudsman recommended the following changes to existing practices to create fairer processes:

- The department should develop guidelines for investigators assigned to harassment complaints on the provision of information and evidence to all involved parties.
- Investigators should be reminded of their duty of fairness, particularly regarding the rights of the person to know and understand the allegations against them and the natural justice rights of disclosure.
- The definitions of "harassment" in the Alberta Justice Personnel Policy PERS 27.9, the Sexual and Workplace Harassment Information Booklet and the Sexual and Workplace Harassment Directive should be consistent.
- The definition of "harassment" in the Policy should distinguish between workplace harassment and sexual harassment.
- Investigators should receive training to understand the proper presentation of evidence.
- Vague comments in Letters of Reprimand should be replaced with reference to specific behaviour and incidents, relating evidence to policy and to the conclusions reached.
- Department staff should be reminded the primary authority is Policy PERS 27.9, supplemented by the Booklet and the Directive.
- The wording in the Policy, Booklet and Directive should equally reflect an alleged abuser is or is not "in violation" of a policy, rather than "guilty" or "innocent", which implies criminal intent.

The department resolved the specific complaint and addressed the systemic issues. Beyond making its reasons for the Letter of Reprimand clearer to the alleged abuser, the department is committed to improving policies and procedures to benefit all employees. These improvements included:

- The alleged abuser will be given a copy of the written letter of complaint with sufficient time to prepare for the interview by the investigator, except in cases where legal advice indicates the department should not do so. The Ombudsman also recommended the investigation and other evidence be provided to the alleged abuser; the department maintains it prefers to refer questions of access and privacy to the Freedom of Information and Protection of Privacy process which provides consistency on these matters.

- Developing a training program for employees involved in boards of inquiry and/or investigations.
- Revising Policy PERS 27.9 to distinguish between "workplace" and "sexual" harassment. The department will also work with the Personnel Administration Office (PAO) to provide more uniformity between the Policy, the Booklet and the Directive.
- Directing department managers to describe specific behaviour in disciplinary letters so that it is clear to the employee how their actions constituted policy violation.

The department is applauded for acting on the Ombudsman's recommendations and for its ongoing work with the PAO to rectify inconsistencies in the various documents.

Workers' Compensation Board

As a result of legislative changes, the Workers' Compensation Board (WCB) revised its review process and for the first time, the Ombudsman had the opportunity to review the Decision Review Body (DRB) process which replaced the old Claims Services Review Committee. Common issues were found in several files. One file was chosen as the "lead file" as it contained all of the general issues identified on the other files.

As a result of the findings in the lead file and others, the Ombudsman and WCB discussed the following points and agreed on an implementation plan.

- The Ombudsman asked for clarification on how requests for review should be received by the DRB. The WCB stated that it prefers requests to be in writing, but some flexibility is required. The WCB agreed that if a review proceeds without a written request, the DRB will document its reasons for proceeding without a written request and contact the worker to ensure there is agreement on issues to be reviewed and a record of that agreement. The worker will be given an opportunity to comment on the accuracy of the issues to be reviewed and given details of the review process.
- An agreement was reached that all information should be shared with all parties to allow each party to make representation on their own behalf.
- A written decision will be provided by the DRB which will outline the DRB collaborative steps taken before the formal review decision, noting who was involved, and what was considered in the decision.
- The period of time the decision relates to will be clearly identified.

The WCB accepted the Ombudsman's recommendation on how to resolve the lead file in a manner satisfactory to the complainant. The DRB agreed to reconsider the applicant's request for a review based on the following concerns: it was not clear the complainant had asked for a review; the issues had not been clearly agreed upon; evidence collected by the DRB was not shared with the complainant and it was not clear what evidence had been considered by the DRB.

The WCB also instituted changes to the DRB processes to address the systemic issues of administrative unfairness identified by the Ombudsman. Implementation of these changes will enhance the effectiveness and efficiency of the DRB as both an informal problem resolution process and a formal review mechanism for injured workers.

Victims of Crime Financial Benefits Program and Criminal Injuries Review Board

Four people complained separately about the Victims of Crime Financial Benefits Program and the Criminal Injuries Review Board. The Program compensates victims who are injured as a direct result of a violent crime in Alberta with a one-time financial benefit based on the severity of the victim's injuries, in accordance with the *Victims of Crime Act*. The Board provides an independent review of the decisions of the Program. The Chair of the Board has the authority to determine which decisions shall be reviewed by the Board.

The Ombudsman investigated all of the complaints at once and made general recommendations about the Program and the Board, which included the role of the Chair. The Ombudsman also made recommendations specific to each complainant.

On the Program in general, the Ombudsman recommended:

- The application form be rewritten to specify the Program may or may not contact and collect evidence from the people the victim names on the application form.
- The Program should identify to the victim the reports it is requesting to give the victim the opportunity to collect additional information.
- The decision letter should indicate the authority of the person signing the letter.
- The Program needs to give better reasons for its decisions by relating the evidence to the relevant legislation.
- Both questions of timeliness in Section 12(2) of the Act should be addressed: it should be determined when a victim knew or should have known the nature of the injuries and when the victim recognized the effects of the injuries.

- In investigations where timeliness is a factor, medical practitioners should be consulted to verify when the victim knew the nature, and recognized the effects of, the injuries.
- In accordance with Section 15.1 of the Act, the victim must be notified of the option to appeal and adequately informed about the appeal process.

With regard to the role of the chair and the Board, the Ombudsman recommended the following:

- The chair's role, when conducting the initial review under Section 14(3) of the Act, should be clarified. The chair has the authority to review the request and either dismiss it or pass it on to the Board for review. The chair does not have the authority to review the evidence analyzed by the director.
- Section 14(3) of the Act and Section 7 of the Victims' Benefits Regulations need to be compatible in their description and role of the chair.
- The chair needs to provide better reasons for a decision by outlining evidence and relating it to relevant legislation.
- The Notice of Request for Review form should be rewritten to describe the chair's actual authority.

In addition to these general issues, specific issues on one file warrant reporting. One complainant argued the Program director refused to extend the time limitation for application for benefits under the Act; the Program and the Board failed to interview counselors who could support his case and the Board decision was made by the chair alone rather than a full panel of the Board.

The Ombudsman made the following recommendations regarding this specific complaint:

- The Program should seek opinions from the counselors indicated by the complainant and should address the issue of timeliness as per Section 12(2) of the Act regarding when and why the complainant knew, or ought to have known, the nature and effect of his injuries.
- The Program should review the information from counselors and provide a written decision to the complainant, outlining the evidence considered and relating it to relevant legislation.

The Program and Board accepted all of the Ombudsman's recommendations and are to be commended for their cooperative spirit.

ALBERTA OMBUDSMAN
Focused on Fairness

OFFICE OF THE OMBUDSMAN

FINANCIAL Statements

AS AT MARCH 31, 2005

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AUDITOR'S Report

AUDITOR GENERAL *Alberta*

To the Members of the Legislative Assembly

I have audited the statement of financial position of the Office of the Ombudsman as at March 31, 2005 and the statements of changes in net liabilities, operations and cash flow for the year then ended. These financial statements are the responsibility of the Office's management. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, these financial statements present fairly, in all material respects, the financial position of the Office of the Ombudsman as at March 31, 2005 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

Fred J. Dunn FCA
Auditor General

Edmonton, Alberta
June 15, 2005

OFFICE OF THE OMBUDSMAN

Statement of FINANCIAL Position

AS AT MARCH 31, 2005

	2005	2004
Assets:		
Cash	$ 300	$ 300
Advances	5,550	4,500
Tangible capital assets (Note 3)	20,934	-
	$ 26,784	$ 4,800
Liabilities:		
Accounts payable and accrued liabilities	$ 233,470	$ 189,750
Net liabilities	(206,686)	(184,950)
	$ 26,784	$ 4,800

The accompanying notes and schedules are part of these financial statements.

OFFICE OF THE OMBUDSMAN

Statement of CHANGES in Net Liabilities

FOR THE YEAR ENDED MARCH 31, 2005

	2005	2004
Net liabilities at beginning of year	$ (184,950)	$ (247,236)
Net operating results	(1,775,789)	(1,619,464)
Net transfer from general revenues	1,754,053	1,681,750
Net liabilities at end of year	$ (206,686)	$ (184,950)

The accompanying notes and schedules are part of these financial statements.

OFFICE OF THE OMBUDSMAN

Statement of OPERATIONS

FOR THE YEAR ENDED MARCH 31, 2005

	2005		2004
	Budget (Note 5)	Actual	Actual
Expenses: (Note 5)			
Voted:			
Salaries, wages, and employee benefits		$ 1,409,302	$ 1,223,553
Supplies and services		389,080	386,479
	$ 2,130,000	1,798,382	1,610,032
Non Budgetary			
Capitalization of assets expensed as supplies		(23,260)	-
Amortization of capital assets		2,326	-
		(20,934)	-
Valuation adjustment:			
Provision for vacation pay		(1,659)	9,432
Net operating results		$(1,775,789)	$(1,619,464)

The accompanying notes and schedules are part of these financial statements.

OFFICE OF THE OMBUDSMAN

Statement of CASH FLOW

FOR THE YEAR ENDED MARCH 31, 2005

	2005	2004
Operating transactions		
Net operating results	$(1,775,789)	$(1,619,464)
Non-cash items included in net operating results		
Amortization of capital assets	2,326	-
Provision for vacation pay	(1,659)	9,432
	(1,775,122)	(1,610,032)
Increase (decrease) in accounts payable and accrued liabilities	45,379	(69,718)
Cash provided (applied to) by operating transactions	(1,729,743)	(1,679,750)
Capital transactions		
Acquisition of capital assets	(23,260)	-
Cash provided (applied to) by capital transactions	(23,260)	-
Investing transactions		
Advances	(1,050)	(2,000)
Cash provided (applied to) by investing transactions	(1,050)	(2,000)
Financing transactions		
Net transfer from general revenues	1,754,053	1,681,750
Increase (decrease) in cash	-	-
Cash, beginning of year	300	300
Cash, end of year	$ 300	$ 300

The accompanying notes and schedules are part of these financial statements.

OFFICE OF THE OMBUDSMAN

NOTES to the Financial Statements

FOR THE YEAR ENDED MARCH 31, 2005

NOTE 1 AUTHORITY AND PURPOSE

The Ombudsman is an officer of the Legislature who operates under the authority of the *Ombudsman Act*. The net cost of the operations of the Office of the Ombudsman is borne by the General Revenue Fund of the Province of Alberta. Annual operating budgets are approved by the Standing Committee on Legislative Offices.

The Office determines administrative fairness by responding to complaints of unfair treatment by provincial government authorities and professional organizations.

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES

These financial statements are prepared in accordance with the accounting policies established by Alberta Finance. The recommendations of the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants are the primary source for these government policies. Recommendations of the Accounting Standards Board of the Canadian Institute of Chartered Accountants, other authoritative pronouncements, accounting literature, and published financial statements relating to either the public sector or analogous situations in the private sector are used to supplement the recommendations of the Public Sector Accounting Board where it is considered appropriate.

a) Reporting Entity

The reporting entity is the Office of the Ombudsman which is a legislative office, for which the Ombudsman is responsible.

The Office operates within the General Revenue Fund. The Fund is administrated by the Minister of Finance. All receipts of the Office are deposited into the Fund and all disbursements made by the Office are paid from the Fund.

b) Basis of Financial Reporting

Expenses
Expenses represent the costs of resources consumed during the year on the Office's operations.

Pension costs included in these statements comprise the cost of employer contributions for current service of employees during the year.

Certain expenses, primarily for office space, incurred on behalf of the Office by government departments are not reflected in the Statement of Operations but are disclosed in Schedule 2.

Valuation Adjustments
Valuation adjustments represent the change in management's estimate of future payments relating to vacation pay.

Assets
Tangible capital assets are amortized on a straight-line basis, over the estimated useful lives of the assets as follows:

Computer hardware and software	3 years
Furniture and other office equipment	10 years

Assets are capitalized if their useful life is expected to be longer than 1 year and purchase price is $5,000 or greater ($15,000 for fiscal years prior to March 31, 2004). A full year of amortization is taken in the year of acquisition.

Net Liabilities
Net liabilities represent the difference between the recorded value of the assets of the Office and its liabilities.

Valuation of Financial Assets and Liabilities
Fair value is the amount of consideration agreed upon in an arm's length transaction between knowledgeable, willing parties who are under no compulsion to act.

The fair values of cash, advances, and accounts payable and accrued liabilities are estimated to approximate their book values.

NOTE 3 TANGIBLE CAPITAL ASSETS

	2005			2004
	Cost	Accumulated Amortization	Net Book Value	Net Book Value
Computer hardware and software	$ -	$ -	$ -	$ -
Furniture and other office equipment	23,260	2,326	20,934	-
	$ 23,260	$ 2,326	$ 20,934	$ -

Note 4 Lease Obligations or Commitments

The Office leases certain equipment under operating leases that expire on various dates to 2007. The aggregate amounts payable for the unexpired terms of these leases are as follows:

2006	$ 4,224
2007	2,258
Total	$ 6,482

Note 5 Budget

Expenses:	
2004-05 authorized budget[a]	$ 2,130,000
2004-05 actual expenses (excluding valuation adjustments)	1,798,382
2004-05 unexpended (excluding valuation adjustments)	$ 331,618

[a] Legislative Assembly Estimates approved on May 19, 2004.

Note 6 Defined Benefit Plan (in thousands)

The Office participates in the multi-employer pension plans, Management Employees Pension Plan and Public Service Pension Plan. The Office also participates in the multi-employer Supplementary Retirement Plan for Public Service Managers. The expense for these pension plans is equivalent to the annual contributions of $104 for the year ended March 31, 2005 (2004 – $89).

At December 31, 2004, the Management Employees Pension Plan reported a deficiency of $268,101 (2003 – $290,014) and the Public Service Pension Plan reported a deficiency of $450,068 (2003 – $584,213). At December 31, 2004 the Supplementary Retirement Plan for Public Service Managers had a surplus of $9,404 (2003 – $9,312).

The Office also participates in two multi-employer Long Term Disability Income Continuance Plans. At March 31, 2005, the Bargaining Unit Plan reported an actuarial deficiency of $11,817 (2004 - $9,766) and the Management, Opted Out and Excluded Plan an actuarial surplus of $3,208 (2004 – $1,298). The expense for these two plans is limited to employer's annual contributions for the year.

Note 7 Approval of Financial Statements

These financial statements were approved by the Senior Financial Officer and the Ombudsman.

OFFICE OF THE OMBUDSMAN

Schedule 1 - Salary and Benefits DISCLOSURE

FOR THE YEAR ENDED MARCH 31, 2005

	2005				2004
	Base Salary (1)	Other Cash Benefits (2)	Other Non-cash Benefits (3)	Total	Total
Senior official					
Ombudsman (4)	$135,852	-	$21,272	$157,124	$132,097
Deputy Ombudsman (5)	$ 33,785	$ 5,153	$ 5,745	$ 44,683	$ -

(1) Base salary includes regular base pay.
(2) Other cash benefits include bonuses, vacation payouts, overtime and lump sum payments.
(3) Other non-cash benefits include government's share of all employee benefits and contributions or payments made on behalf of employees including pension, health care, dental coverage, group life insurance, short and long-term disability plans, professional memberships and tuition fees.
(4) Automobile provided, no dollar amount included in other non-cash benefits figures.
(5) Position created on December 1, 2004.

OFFICE OF THE OMBUDSMAN

Schedule 2 - Schedule of ALLOCATED COSTS

FOR THE YEAR ENDED MARCH 31, 2005

	2005				2004
Program	Expenses[1]	Expenses Incurred by Others Accommodation Costs[2]	Valuation Adjustment[3] Vacation Pay	Total Expenses	Total Expenses
Operations	$ 1,798,382	$ 193,462	$ (1,659)	$ 1,990,185	$ 1,819,710

(1) Expenses - Directly Incurred as per Statement of Operations, excluding valuation adjustments.

(2) Costs shown for Accommodation (includes grants in lieu of taxes), allocated by square footage.

(3) Valuation Adjustment as per Statement of Operations. Employee benefits provision was allocated by employee.

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